IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3810 of 2006

For Approval and Signature:

HONOURABLE MR. JUSTICE B.J.SHETHNA

HONOURABLE MR.JUSTICE R.P.DHOLAKIA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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DIGVIJAYSINH G. ZALA - Petitioner(s)

Versus

STATE OF GUJARAT & 4 - Respondent(s)

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Appearance :
MR TUSHAR MEHTA for Petitioner(s) : 1,
MR SM CHUDASAMA for Petitioner(s) : 1,
MR SR GORI AGP for Respondent(s) : 1,
DS AFF.NOT FILED (N) for Respondent(s) : 1 - 2.
None for Respondent(s) : 3,
MR IM BENGALI for Respondent(s) : 4,
MS SADHANA SAGAR for Respondent(s) : 4,
MR AJ YAGNIK for Respondent(s) : 4,
MR SM CHUDASAMA for Respondent(s) : 4,
MR AMIT A SOOD for Respondent(s) : 4,
MR SHIRISH JOSHI for Respondent(s) : 5,

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CORAM : HONOURABLE MR. JUSTICE B.J.SHETHNA
and
HONOURABLE MR.JUSTICE R.P.DHOLAKIA

Date : 25/04/2006

ORAL JUDGMENT

(Per : HONOURABLE MR. JUSTICE B.J.SHETHNA)

1. Rule. Learned AGP Shri Gori waives service for respondent nos.1 to 3, Mr.Nehal Joshi for Mr.I.M. Bengali waives service for respondent no.4, Mr.Baiju Joshi for respondent no.5 and Shri Amit Sood and Shri S.N. Chudasama for M/s. Vijay Corporation, Ahmedabad.

2. Heard learned counsel for the parties. It is stated at the bar by the learned counsel for the parties that as per the orders dated 16.03.2006 and 30.03.2006 passed by the different Division Benches of this Court, auction was held on 10th April, 2006 by the Liquidator. The Liquidator Shri D.D. Mori who was present before the Court through learned AGP Shri Gori has submitted his report dated 17th April, 2006. As per the said report, the petitioner's offer of Rs.1,755/- per sq.mtr. was the highest. M/s. Vijay Corporation, Ahmedabad, though offered more than the upset price of Rs.1,655/- per sq.mtr., had not offered more than Rs.1,755/- per sq.mtr. offered by the petitioner.

3. Under the circumstances, highest offer of Rs.1,755/- per sq.mtr. of the petitioner is required to be accepted. Accordingly, the Liquidator is directed to execute a sale deed in favour of the petitioner or his nominee at the rate of Rs.1,755/-. The petitioner shall pay the amount so ascertained within one month from today. Upon the petitioner depositing the said amount, the Liquidator shall execute a sale deed as mentioned in the city survey property card produced by the petitioner on record of the case and put the petitioner in actual, vacant and peaceful possession of the land in question vide impugned notice dated 28th January, 2006 at the earliest.

4. M/s. Vijay Corporation, Ahmedabad had deposited Rs.2.15 crores which shall be now refunded to it within seven days from today by the Liquidator by account payee cheque in the name of M/s. Vijay Corporation, Ahmedabad. Similarly, Rs.2.15 crores deposited by Vishal Exports Overseas Ltd., - present respondent no.4 shall also be refunded to the respondent no.4 by way of account payee cheque by the Liquidator as per the directions issued by the Division Bench of this Court in its order dated

30.03.2006.

5. With these observations and directions, this petition is disposed of. Rule is made absolute.

6. This order was pronounced in open in presence of Liquidator, therefore, it is accepted to be complied with immediately. However, the office is directed to supply copy of this order to all the learned counsel for the parties for its immediate implementation.

(B.J.SHETHNA, J.)

(R.P.DHOLAKIA,J.)

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